

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

JEFFREY J. GIORDANO,

Plaintiff,

V.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant.¹

No. 2:20-cv-02082-JDP

STIPULATION AND ORDER FOR EXTENSION
TO FILE DEFENDANT'S CROSS-MOTION FOR
SUMMARY JUDGMENT

ECF No. 16

The parties stipulate through counsel that Defendant, the Acting Commissioner of Social Security (the “Commissioner”), shall have an extension of time to file her cross-motion for summary judgment in this case. In support of this request, the Commissioner respectfully states as follows:

1. Primary responsibility for handling this case has been delegated to the Office of the Regional Chief Counsel, Region IX, in San Francisco, California (the “Region IX Office”).

2. Defendant's response to Plaintiff's opening brief is currently due December 2, 2021. Defendant has not previously requested an extension of time for this deadline.

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 3. The Region IX Office currently handles all district and circuit court litigation
2 involving the Social Security program arising in Arizona, California, Hawai‘i, Nevada, and
3 Guam.

4 4. The Region IX Office employs 44 staff attorneys, of whom 30 are actively
5 handling civil litigation involving the Social Security program in the eight assigned jurisdictions.
6 Most of the attorneys who handle program litigation cases have additional responsibilities, such
7 as litigating in other practice areas described below, acting as Jurisdictional leads, reviewing the
8 work product of junior attorneys, conducting trainings, and participating in national workgroups.
9 In addition, because of attorneys taking unexpected leave or resigning, the Region IX Office has
10 had to re-assign dozens of cases and substitute in new counsel who have had to absorb these re-
11 assigned cases into their existing caseloads.

12 5. As of November 13, 2021, the Region IX Office has 365 district court briefs due in
13 the next sixty days in the jurisdictions it handles; at least 285 of these are due in the next thirty
14 days.

15 6. In addition to “program” litigation, the Region IX Office provides a full range of
16 legal services as counsel for the Social Security Administration, in a region that covers four states
17 (including the most populous state in the nation) and three territories. These other workloads
18 include employment litigation; civil rights investigations; bankruptcy matters; and requests for
19 legal advice on wide-ranging topics, including Regional office client requests for advice on
20 program issues, employee conduct and performance, reasonable accommodation, hostile work
21 environment, ethics, Privacy Act and disclosure, and torts. Because of the high volume of
22 program litigation cases, the Region IX Office has had to focus its efforts on processing only
23 other workloads that are subject to statutory, regulatory, and court deadlines.

24 7. The undersigned attorney has eleven briefs due in district court cases over the next
25 month, and a ninth circuit answering brief as well as other responsibilities within her office with
26 deadlines that cannot be extended.

27 8. Due to the volume of the overall workload within the Region IX Office, neither the
28 undersigned attorney nor another attorney in the Region IX Office anticipate being able to

1 complete briefing by the current due date of December 2, 2021. Therefore, Defendant seeks an
2 extension of 30 days, until January 1, 2022 to respond to Plaintiff's opening brief.

3 9. This request is made in good faith and is not intended to delay the proceedings in
4 this matter.

5 WHEREFORE, Defendant requests until January 1, 2022, to file her cross-motion for
6 summary judgment.

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Respectfully submitted,

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10 DATE: November 23, 2021

/s/ *Robert Weems*
ROBERT WEEMS
Attorney for Plaintiff
(as approved via email)

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PHILLIP A. TALBERT
Acting United States Attorney

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15 DATE: November 23, 2021

By *s/ Margaret Lehrkind*
MARGARET LEHRKIND
Special Assistant United States Attorney

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Attorneys for Defendant

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ORDER

The parties' stipulation, ECF No. 16, is construed as a motion and granted for good cause shown.

IT IS SO ORDERED.

Dated: November 23, 2021

JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE